

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE CATV POLE ATTACHMENT)	
TARIFF OF LICKING VALLEY)	ADMINISTRATIVE
RURAL ELECTRIC COOPERATIVE)	CASE NO. 251-42
CORPORATION)	

O R D E R

Procedural Background

On September 17, 1982, the Commission issued an Amended Order in Administrative Case No. 251, "The Adoption of a Standard Methodology for Establishing Rates for CATV Pole Attachments," and ordered electric and telephone utilities providing or proposing to provide CATV pole attachments to file tariffs conforming to the principles and findings of the Order on or before November 1, 1982.

On November 1, 1982, Licking Valley Rural Electric Cooperative Corporation ("Licking Valley") filed rates, rules, and regulations for CATV pole attachments. On November 15, 1982, the Commission suspended Licking Valley's CATV pole attachment tariff to allow the maximum statutory time for investigation and comment from interested persons.

On November 19, 1982, the Kentucky Cable Television Association, Inc., ("KCTA") requested and was granted leave to intervene and comment on Licking Valley's CATV pole attachment tariff. On January 17, 1983, KCTA filed a statement of

objections to various CATV pole attachment tariffs, including those of Licking Valley.

Findings

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. Licking Valley's rules and regulations governing CATV pole attachments conform to the principles and findings of the Commission's Amended Order in Administrative Case No. 251, and would be approved, except for the following objections:

- (a) Billing: The late payment provision should be the same as that applied to other customers of Licking Valley.
- (b) KCTA objects to tariff provisions which disclaim liability for loss or damage resulting from Licking Valley's transfer of CATV facilities when the CATV operator has not made the transfers according to the specified timetable. This is a reasonable objection, and Licking Valley should only disclaim liability in such instances for any consequential damages such as loss of service to CATV customers.
- (c) KCTA objects to indemnification and hold harmless provisions which require indemnity from the CATV operator even when Licking Valley is solely liable. This is a reasonable objection, and should be corrected in the tariff. Licking Valley may require indemnification and hold

harmless provisions in cases of alleged sole or joint negligence by the CATV operator, but cannot require same merely because of the existence of CATV attachments and equipment on Licking Valley's poles.

- (d) KCTA objects to lack of tariff provisions which would provide for reduction or lifting of bonding requirements after the CATV operator has proven to be a reliable customer. This is a reasonable objection. If a bond is furnished by the CATV operator to assure performance of required indemnity and hold harmless provisions, such bond should be in a form and amount reasonably calculated to cover the undertakings specified during the "make-ready" and construction phases of the CATV system's operation.

The amount of the bond may be reduced after the CATV operator has proven itself to be a reliable utility customer. Allowance of such reduction should not be unreasonably denied.

- (e) KCTA objects to provisions disclaiming liability if the CATV operator is ever prevented from placing or maintaining attachments on Licking Valley's poles, or if CATV service is ever interrupted or television service interfered with. This objection is reasonable, although Licking Valley may have tariff provisions

disclaiming liability if the inability of the CATV operator to make attachments is not the fault of Licking Valley, as when municipal franchises or right-of-way must be acquired by the CATV operator prior to making pole attachments.

Similarly, Licking Valley may not require that it be held harmless when its own negligence results in damage to CATV lines and equipment or interference with CATV service, but may require that it be held harmless when such conditions are caused by situations beyond its control.

- (f) KCTA objects to provisions which require a penalty fee at double the normal rate for changes necessary to correct substandard installations by CATV operators. Specifically, KCTA states that while the Commission's Order in this matter authorizes double billing for unauthorized, substandard attachments, it makes no provision for substandard, but authorized installations.

This objection is unreasonable. While the CATV operator may obtain authorization to make attachments, this can in no way relieve the operator of the responsibility to insure that attachments are made in a safe manner which adheres to applicable codes such as the National Electric Safety Code. KCTA is also incorrect as

it relates to Licking Valley, since its proposed tariff only applies to substandard, unauthorized attachments.

(g) Abandonment by the Utility: Licking Valley's provision allowing the CATV operator only 48-hours' notice when it desires to abandon a pole is unreasonable. The CATV operator should be informed of such abandonment as soon as possible, but in any event should have at least 30-days' notice if no other pole is available or planned to be installed by Licking Valley.

(h) Abandonment by the CATV Operator: Licking Valley's tariff provision requiring the CATV operator to pay rental for the then current year is unreasonable. Just as with any other customer, the CATV operator can only be held responsible for rental for the then current month when the CATV operator abandons the pole.

(i) Licking Valley's tariff proposes that it may terminate service to the CATV operator if the bill is not paid within 20 days of the mailing date. The tariff should be amended to conform to the Commission's regulations concerning discontinuance of service to electric customers.

2. Licking Valley's calculation of its annual carrying cost should be modified to exclude interest expense, as this is covered by the "cost of money" component, and to include a cost

of money component equal to the rate of return on investment of 8.48 percent allowed in its last general rate case, Case No. 8447.

3. KCTA objected to Licking Valley's proposed rates for pole attachments as shown on sheet 2 stating they are inconsistent with the calculations provided by Licking Valley. KCTA's objection is reasonable. Licking Valley should file rates supported by calculations conforming to the principles and findings in the Commission's Order of September 17, 1982.

4. Licking Valley should be allowed to substitute 1982 Annual Report information to adjust its annual carrying charge, if the information is available and filed with the Commission.

ORDERS

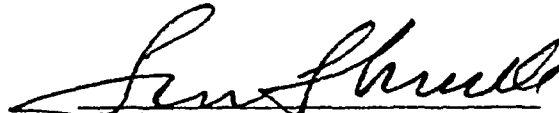
IT IS THEREFORE ORDERED that Licking Valley's CATV pole attachment tariff filed with the Commission on November 1, 1982, be and it hereby is rejected.

IT IS FURTHER ORDERED that Licking Valley shall file revised rates, rules, and regulations governing CATV pole attachments with the Commission within 30 days from the date of this Order, and that the revised rates, rules and regulations shall conform to the findings of this Order.

IT IS FURTHER ORDERED that Licking Valley shall file detailed workpapers supporting its revised rates at the same time it files its revised rates, rules and regulations.

Done at Frankfort, Kentucky, this 12th day of May, 1983.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST :

Secretary